

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Bates and Knox Analyst: Kimberly Pantoja Bill Number: AB 763

Related Bills: See Prior Analysis Telephone: 845-4786 Amended Date: 05/24/99

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Child Adoption Credit Conformity

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended
☒ May 11, 1999.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

☒ REMAINDER OF PREVIOUS ANALYSES OF BILL AS AMENDED April 5, 1999, and May 11, 1999, STILL APPLY.

☒ OTHER - See comments below.

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL), this bill, by conforming with modifications to the federal adoption credit, would allow a state credit equal to 50% of the costs above \$5,000 (\$6,000 in the case of a child with special needs) but not in excess of \$10,000 (\$11,000 in the case of a child with special needs) paid or incurred by the taxpayer for an adoption that is not eligible for the current state credit for public agency adoptions.

SUMMARY OF AMENDMENT

The May 24, 1999, amendments resolved the policy concern regarding a repeal date identified in the department's analysis of the bill as amended April 5, 1999, and a technical consideration identified in the department's analysis of the bill as amended May 11, 1999. However, the repeal date has raised an implementation concern, discussed below.

The amendments also added legislative intent language regarding the enactment of this credit and added a reporting requirement for the Franchise Tax Board (FTB) to identify the total amount of tax credits claimed and allowed for adoption related expenses.

The remainder of the department's analyses of the bill as amended April 5, 1999, and May 11, 1999, still apply.

EFFECTIVE DATE

This bill is a tax levy and would apply to taxable years beginning on or after January 1, 1999, and before January 1, 2005.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input checked="" type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Department/Legislative Director Date

Johnnie Lou Rosas **6/9/1999**

Implementation Consideration

Recent credits have been enacted with a limit on the carryover since experience has shown credits are typically exhausted within eight years. The carryover for this credit is not limited, requiring the department to keep the credit on the tax returns indefinitely.

The bill requires the department to report annually on the prior year's credit use. Since the due date for the tax returns is April 15, with an automatic extension to October 15, the department could provide only a preliminary report in the succeeding year, but would not have complete information for the preceding taxable year.

The credit has intent language specifying that the credit should be available as long as a federal credit is allowed. The federal credit ends in 2001 for regular adoptions and continues indefinitely for special needs adoptions. However, this credit sunsets January 1, 2005. The intent language appears to conflict with the sunset date: the state credit would allow regular adoptions for four years after the federal credit ends, and the federal credit for special needs adoptions will continue after the state credits ends.

Technical Consideration

Amendment 1 has been provided to make a clarifying technical change.

Amendment 2 has been provided to correct an incorrect Internal Revenue Code reference.

LEGISLATIVELY MANDATED REPORTS

The FTB would be required to report in 2001, and each year thereafter, the total amount of tax credits claimed and allowed for adoption related expenses, and to the extent the information is available, the distribution by adjusted gross income class of taxpayers allowed either of the credits.

BOARD POSITION

Neutral.

At its March 23, 1999, meeting, the Franchise Tax Board voted 2-0 to take a neutral position on this bill, as introduced February 24, 1999.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 763
As Amended May 24, 1999

AMENDMENT 1

On page 2, line 7, strike "in an amount" and insert:

an amount

AMENDMENT 2

On page 2, line 20, strike "23(d)" and insert:

23(c)